IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	)	
David WEISS et al.	)	Group Art Unit: 3727
Serial No. 09/811,421	)	Examiner: Joseph C. Merek
Filed: March 20, 2001	)	
For: CLOSURE INDICATOR FOR CUP LID	)	Date: May 6, 2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on May 6, 2002.

Jeannie Saxton

REQUEST FOR RECONSIDERATION

Commissioner for Patents
Washington, D.C. 20231

Sir:

The Examiner's Action dated February 5, 2002 has been received and its contents carefully noted. In view thereof, it is respectfully requested that the rejections of record be reconsidered and withdrawn by the Examiner and that the application be passed to issue for the following reasons. Additionally, filed concurrently herewith are Terminal Disclaimers disclaiming the term of the present application which extends beyond that of U.S. Patent No. 6,230,924 as well as U.S. Patent No. 6,207,100 in order to overcome the Examiner's Rejection of claims 1-14 under the judicially created Doctrine of Obviousness Type Double Patenting.

Referring initially to page 2 of the Office Action, claims 1-14 have been rejected under the judicially created Doctrine of Obviousness Type Double Patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,230,924 as well as claims 1-12 of U.S. Patent No. 6,207,100. As noted hereinabove, filed concurrently herewith are Terminal Disclaimers properly identifying each of the above-noted patents. Accordingly, it is respectfully requested that the Examiner review and fully consider the concurrently filed Terminal Disclaimer, that the rejection of claims 1-14 under the judicially created Doctrine of Obviousness Type Double Patenting be reconsidered and withdrawn and that the application be passed to issue.

Referring now to paragraph 5 of the Office Action, claims 1-4, 7-11 and 14 have been rejected as being clearly anticipated by Norris. This rejection is respectfully traversed in that the patent to Norris neither discloses nor remotely suggests that which is presently set forth by Applicants' claimed invention.

The present invention is directed to a lid for a container and as recited in claim 1 the lid includes a closure surface, a circumferential rim extending about a periphery of the closure surface, a plurality of cut outs formed in the circumferential rim with at least one cut out being formed in each of the quadrants of the circumferential rim and at least one access opening formed in the closure surface for permitting access to the contents of the container. Clearly, the patent to Norris fails to disclose or remotely suggest such features. Likewise, independent claim 8 recites a lid for a container including a closure surface, a circumferential rim extending about a periphery of the closure surface and a plurality of cuts out formed in the circumferential rim with at least two of the cut outs being spaced apart a circumferential distance equal to a greater than a

respective quadrant of the closure surface. With each of these claims the essence of the present invention is that at least a portion of a brim of the container is visible through each of the plurality of cut outs when the lid is positioned on the container. Clearly, the patent to Norris fails to disclose or remotely suggest which features.

Particularly, it is noted that the patent to Norris is directed to a flying insect container guard which includes a screened matrix of predetennined openings tapering downwardly into orifices to meter the flow of fluid from an associated beverage container through the openings. That is, the container lid includes a plurality of openings in the closure surface of the container surface; however, as the Examiner can readily appreciate from Figs. 1, 2 and 3, the plurality of cut outs are not formed in the horizontally oriented planar rim 11. Moreover, there would be no reason to form such openings in the rim in that the openings 16 specifically include downwardly depending sides 17 directed to a medially oriented orifice 18 in order to direct the flow of fluid through the screen. Accordingly, it is respectfully submitted that Applicants' claimed invention as set forth in each of independent claims 1 and 8 as well as those claims which depend therefrom which recite that the plurality of cut outs are formed in the circumferential rim which is clearly not the case or remotely contemplated in the Norris reference are in proper condition for allowance and that they clearly distinguish over the teachings of Norris.

Referring now to paragraph 6 of the Office Action, claims 1-14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,705,188 issued to Rahn. This rejection is respectfully traversed in that the patent to Rahn neither discloses nor remotely suggests that which is presently set forth by Applicants' claimed invention.

In rejecting claims 1-14, the Examiner states that Rahn teaches the claimed structure but does not teach the access opening in the closure. The Examiner goes on to take Official Notice that it is well known to provide a closure within the perimeter of a closure and that it would have been obvious to employ an inner closure within the lid of Rahn so that the contents could be dispensed without removing the entire lid. While it may be within the cognizance of one of ordinary skill in the art to provide a closure within the perimeter of a lid in order to access the contents thereof, it is respectfully submitted that one of ordinary skill in the art would in no way even remotely contemplate carrying out such a modification to the keg cap disclosed by Rahn in U.S. Patent No. 4,705,188. Accordingly, Applicants respectfully traverses the Examiner's position that it would have been obvious to modify the closure of Rahn in view of the Official Notice taken in paragraph 6 of the Office Action.

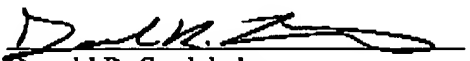
It is noted that the patent to Rahn is directed to a keg cap for covering the open end of a Barnes neck surrounding the outlet of a keg for malt beverages and includes a vent means at the junction of the top and skirt of the lid. This vent means is provided so as to allow small amounts of fluid which are accidentally released from the keg to be vented from within the lid. Clearly, one of ordinary skill in the art would have no intention or be motivated in any way by the teachings of the Rahn reference to provide an inner closure or access opening in order to access the contents of the container. The cut outs provided therein are there for the specific purpose of venting fluid from under the cap. While many strange things go on with respect to the use of kegs, it is very unlikely that anyone would drink the contents of the keg directly from the keg without removing the keg cap and placing a tap thereon. Accordingly, it is respectfully

submitted that one of ordinary skill in the art would not modify the teachings of Rahn by the addition of an inner closure as suggested by the Examiner. Accordingly, it is respectfully submitted that Applicants' claimed invention as set forth in each of independent claims 1 and 8 as well as those claims which depend therefrom clearly distinguish over the teachings of Rahn and that the patent to Rahn is not capable of being modified in the manner suggested by the Examiner without destroying the essence to which the patent is directed.

Therefore, in view of the foregoing it is respectfully requested that the rejections of record be reconsidered and withdrawn by the Examiner, that each of claims 1-14 be allowed and that the application be passed to issue.

Should the Examiner believe a conference would be of benefit in expediting the prosecution of the instant application, he is hereby invited to telephone counsel to arrange such a conference.

Respectfully submitted,



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